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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Fifty-eighth session

Summary record (partial)* of the 1232nd meeting
Held at the Palais des Nations, Geneva, on Thursday, 10 July 2014, at 3 p.m.

Chairperson: Ms. Jahan (Vice-Chairperson)

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* No summary record was prepared for the rest of the meeting.

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In the absence of Ms. Ameline, Ms. Jahan (Vice-Chairperson), took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined initial and second periodic reports of Swaziland (continued) (CEDAW/C/SWZ/1-2; CEDAW/C/SWZ/Q/1-2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Swaziland took places at the Committee table.*

Articles 10 to 14 (continued)

2. **Ms. Mabuza** (Swaziland), replying to questions asked at the previous meeting (CEDAW/C/SR.1231), said that, under the Citizenship Act, a child born to a Swazi woman and a foreign man could obtain citizenship, provided certain procedures were followed. The same applied to a foreign man who married a Swazi woman. While there were no immediate plans to review the Act, the nationality issue warranted the Government's attention. She did not have statistics on the number of Swazi women who were married to foreigners, but many foreigners were resident in Swaziland and enjoyed all the social benefits available to Swazi citizens.

3. **Ms. Gbedemah** commended State party on its efforts to uphold the right to free primary education and the resulting increase in enrolment rates, but said that education was not entirely free owing to various hidden costs. Nor was it truly compulsory. She requested more information on measures to increase the number of girls who took up the sciences and urged the State party to consider implementing temporary special measures, in particular quotas, scholarships and career guidance, in accordance with general recommendation 25. She requested statistics relating to enrolment in secondary-level and vocational courses, disaggregated by gender and subject, and corresponding data relating to teaching staff. The high dropout rate among girls was alarming, particularly when it was due to teenage pregnancy. How would the Government enforce the school readmission policy for pregnant girls, which was not fully implemented owing to opposition to it on the part of some communities and schools? Given that a large number of girls also dropped out of school due to early marriage and household duties, how would the Government ensure that primary education was compulsory? Was a comprehensive sex education programme in place for both boys and girls and how would the Government address the preconception that sex education led to promiscuity? Lastly, she called for the provision of proper sanitary facilities for girls in schools.

4. **Ms. Bailey**, referring to the alarming statistics on violence in the education system, said that abuse by teachers was likely to include the sexual abuse of girls. She expressed concern over the prevailing culture of silence and consequent underreporting of such cases. Did the Government plan to collect more specific sex-disaggregated data on the types and locations of abuse committed in and around schools and on the victims and perpetrators? She requested information on the outcomes of the 1,632 child abuse cases reported to the police up to the end of 2006. Other sources indicated that girl victims of sexual abuse by teachers were sometimes forced to marry their abusers and drop out of school, while the perpetrators remained in employment. How widespread was that phenomenon and were there measures in place to combat impunity? Referring to the Government policy to discourage the use of corporal punishment in schools, she asked why the practice could not be abolished immediately.

5. **Ms. Mabuza** (Swaziland) said that the Government had initiated discussions with schools and parents to address the problem of hidden costs in education. It aimed to

implement relevant measures the following year and possibly review the Free Primary Education Act. There was a need for statistical data to inform policy decisions relating to girls' uptake of information technology, science and maths. In that regard, she referred to the Government's cooperation with various Asian countries, efforts to improve career guidance services and a State programme to provide electricity to all schools and build computer science laboratories. The budget allocated for tertiary-level scholarships would be reviewed, the issue of quotas explored and the requested disaggregated data provided. Re-entry policies for pregnant girls must be promoted and girls empowered to return to school following childbirth. There was an age-appropriate sex education programme in place in schools and the State party was working with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Gender Coordination Unit to ensure that it was effective. Since sexual violence against children often occurred as they travelled between home and school, a Government policy had been adopted to ensure that there was a school within every 5-km radius to minimize the distances travelled. More work therefore needed to be done and a clear mechanism should be established to bring the perpetrators of child abuse, including teachers, to justice. The State party would benefit from assistance and guidance from other countries in that regard. The requested statistics on abuse cases and information on their outcomes would be provided. Lastly, the Government had begun to tackle the issue of whether to abolish corporal punishment.

6. **Ms. Pomeranzi** said that, while employment among women had increased steadily, the informal sector was dominated by women and the private sector by men. Furthermore, leadership positions in both sectors were dominated by men. While national legislation did not discriminate against women, there was much de facto discrimination. There was no mechanism to enhance the role of women in the formal sector and labour inspections did not adequately address gender discrimination. What measures were envisaged to ensure that legislation on sexual harassment in the workplace was enacted and enforced? How would the Government ensure that provisions in the Employment Act granting women 12 weeks' paid maternity leave and regular nursing breaks at work were respected, particularly in the largely unmonitored private and informal sectors? What was it doing to ensure that widows received full social protection, particularly those married under customary practices? How was the Gender Coordination Unit involved in addressing such issues?

7. **Ms. Mabuza** (Swaziland) said that the national gender machinery had not yet looked into the effects of discrimination in the informal sector. The ongoing review of the employment bill provided an opportunity to discuss sexual harassment in the workplace and maternity leave. The registration of customary marriages was strongly encouraged, but mechanisms to ensure that every Swazi citizen was protected against the loss of assets on the death of his or her spouse should be improved.

8. **Ms. Mhonta-Simelane** (Swaziland) acknowledged the Committee's concern regarding problems in the informal sector. The Government was working closely with UN-Women on those issues, particularly with regard to cross-border trade.

9. **Ms. Patten** asked how the national gender machinery itself was addressing employment-related challenges. She requested more information on the review of the employment bill, in particular with regard to sexual harassment. Was there a labour inspectorate in place to deal with discrimination in the private and informal sectors? Lastly, were there initiatives to create economic opportunities that would allow women to move into the formal sector?

10. **Ms. Pomeranzi** asked whether the Gender Coordination Unit played an active role in implementing measures aimed at women's economic empowerment and whether it took part in discussions involving the State, trade unions and employers concerning women's access to the labour market.

11. **Ms. Mabuza** (Swaziland) said that the national labour inspectorate carried out regular inspections, but did not take into account gender considerations. The Government had taken a number of measures in order to incorporate a gender component into its employment policies and had appointed a number of gender focal points in an attempt to encourage gender equality. The Ministry of Labour, however, continued to be responsible for employment issues. The Gender Coordination Unit had not yet been involved in discussions on the matter.

12. Efforts had been made to include women working in the informal sector in the national social security system and the Employment Act of 1980 provided for a 12-week maternity period. The Government continued to take a series of measures to enforce the application of labour laws, especially with regard to maternity leave, so as to ensure that women in all sectors enjoyed equal benefits.

13. **Ms. Nwankwo** asked whether the recent health-care audit would be extended to include all medical facilities in the State party and whether the subsequent findings would be used to inform policymaking decisions aimed at tackling the high maternal and infant mortality ratios. She also wished to know whether the Government intended to take steps to address the non-use of contraceptives by women as a result of prevailing social and religious norms and the root causes of vulnerability to sexually transmitted diseases. Would the State party consider decriminalizing abortion in cases of rape, sexual assault or foetal impairment? Lastly, she enquired as to whether age-appropriate sexual and reproductive health education had been made available in schools and whether concrete measures had been taken to address the increasing HIV prevalence among women of reproductive age and the limited access to antiretroviral treatment for pregnant women.

14. **Ms. Mabuza** (Swaziland) said that, despite its best efforts, the Government had struggled to reduce national maternal and infant mortality ratios. Steps had been taken to introduce new health-care programmes to provide comprehensive antenatal, perinatal and postpartum care, to strengthen initiatives to combat mother-to-child HIV transmission and to improve access to medical facilities and services, but more work remained to be done.

15. Family planning services were readily available to women and there were no cultural or religious norms or beliefs which advocated the non-use of contraceptives. Some women living in remote or rural areas experienced difficulties in accessing medical facilities but it was hoped that the forthcoming improvements to the national infrastructure would resolve that issue.

16. The Government had incorporated sexual and reproductive health lessons into the national curriculum and had taken steps to discourage girls from becoming sexually active at a young age. A HIV/AIDS prevention plan had also been devised as part of wider efforts to reduce the rate of transmission.

17. **Ms. Mhonta-Simelane** (Swaziland) said that the Government had taken a series of measures to discourage girls from becoming sexually active at a young age. A study on teenage pregnancy had recently been conducted and its findings would be analysed in order to develop appropriate policy measures to tackle the issue. A number of community-based HIV/AIDS awareness-raising initiatives had also been launched and a strategy to combat gender-based sexual violence had been introduced.

18. **Ms. Pomeranzi** asked whether steps had been taken to implement articles 59 and 60 of the Constitution pertaining to the full integration of women in economic and social life so as to ensure that women entrepreneurs, particularly in rural areas, could access microfinance schemes and enjoy full economic empowerment.

19. **Ms. Mabuza** (Swaziland) said that a variety of microfinance and support measures had been made available to women entrepreneurs and steps had been taken to include

women working in the informal sector in the national social security scheme. Women still faced obstacles in accessing and owning land but it was hoped that the new national land policy would greatly help to address that issue.

20. **Ms. Mhonta-Simelane** (Swaziland) said that efforts had been made to include provisions for women entrepreneurs and small business owners in the national gender policy; however, to date, those provisions had not been fully implemented.

21. **Ms. Pomeranzi** asked whether the Government would consider amending the discriminatory provisions of the Companies Act of 2009, which stipulated that women must gain their husband's prior consent before registering a company.

22. **Ms. Mabuza** (Swaziland) said that Government would consider amending the Companies Act in conjunction with the Marriage Act in order to eliminate any discriminatory provisions against women.

23. **Ms. Gabr** asked what progress had been made to address the poverty faced by rural women, improve their access to land and remove barriers to landownership, such as those requiring women to seek the consent of their husbands before purchasing land. She also wished to know what measures had been taken to review the impact of inheritance laws on women's access to land. Lastly, she enquired about measures taken to include older rural women in HIV/AIDS support programmes and to improve their access to medical facilities and services.

24. **Ms. Zou** Xiaoqiao said that as a result of negative stereotypes women were barely taking part in rural community development or policymaking. There was no institutionalized complaints mechanism, which meant that women's concerns could thus not be integrated into policy. In that light, she wished to know what measures were in place to ensure that rural women participated in policymaking and whether the Government had set up programmes whose aim was to combat stereotypes and highlight the importance of women' participation in political life. The State party was encouraged to take temporary special measures or adopt a quota system.

25. Since women living in rural Swaziland, most of whom were involved in farming or ran small businesses, were generally unable to afford the improvements that would enable them to boost their productivity, she wished to know whether microfinance was available to rural women and whether the Government had programmes specifically targeting rural women. Credit was important, but so was skills training. She thus wished to know whether the Government had set up training programmes for rural women. Lastly, she requested information on the progress that had been made towards the attainment of goals regarding access to safe drinking water, sanitation and waste disposal.

26. **The Chairperson**, speaking in her capacity as an expert, requested additional information on the situation of older women, women with disabilities, women who headed households and widows (especially those who had been in customary marriages). She wished to know what specific steps the State party had taken with respect to pensions or any other social benefits for such women.

27. **Ms. Mabuza** (Swaziland) said that the Ministry of Agriculture had a rural development programme focused on empowering people living in rural areas. As part of the programme, which tended to benefit women, rural extension agents advised smallholders as well as the owners of large farms. Nonetheless, the State party had realized that the programme needed to be expanded.

28. She regretted that statistics concerning women living in poverty in rural areas were not readily available but said that approximately 63 per cent of the population on the whole was living below the poverty line, with women and children accounting for the larger share of people living below that line.

29. The resources that the Government was devoting to the promotion of rural development were not gender-specific. Government-subsidized funding, available through local constituencies or regional offices, could be applied for by those with a passion for a particular project. It was critical to ensure that such funding, which did not have to be paid back to the State, was not perceived as a mere handout.

30. On women and landownership, she said that there had been cases in which widows had been forced from their late husband's land, and in general Swazi legislation did not address that situation. It was hoped that it could be addressed in the context of a proposed bill on gender equality. However, local authorities had been strongly encouraged to ensure that the rights of women in their communities were protected. In a landmark court case, *Attorney General v. Mary-Joyce Doo Aphane*, a provision of the Deeds Registry Act that denied women married in community of property the right to register property in their own name had been ruled unconstitutional. However, a review of the relevant legislation was still pending.

31. Regarding the elderly, in particular grandmothers, she said that the Government provided a small grant amounting to some US$ 20 a month, paid quarterly. Available statistics showed that roughly 70 per cent of the beneficiaries of programmes to assist the elderly were women, many of them grandmothers who were taking care of grandchildren whose parents had succumbed to AIDS or emigrated in search of work outside the country. Technical assistance was being sought for an informed review of the actions that the Government could take to provide assistance to the elderly, who numbered about 60,000. The only assistance meant specifically for the elderly was the grant, but a study of other relevant measures that could be taken had been planned. Everybody aged 60 or older was entitled to the grant, regardless of whether they were still able to work.

32. **The Chairperson**, speaking in her capacity as an expert, asked whether the State party had special programmes for women with disabilities.

33. **Ms. Mabuza** (Swaziland) said that such programmes were slowly being developed. A disability policy, for instance, had been approved in 2013. It was not yet operational, and there were no programmes specifically for women with disabilities. A programme designed to promote community development, however, covered mostly women. As part of the programme, women received training in life skills and were encouraged to take up income-generating projects. The observation that women in Swaziland did not participate in community development was thus not entirely accurate, but the programme would most likely need to be expanded. Women were also the main decision makers in rural areas and led most projects.

34. Quotas could be looked into as part of the ongoing review of the employment bill, but it was important to keep in mind that men played an equally important role in development and should not be neglected. The Government's development programmes thus had to emphasize equality.

35. Regarding access to credit to boost productivity, she said that people in rural areas who could not be accommodated by the formal banking sector were the intended beneficiaries of the work of such organizations as the Imbita Women's Finance Trust. A programme of the Ministry of Finance was looking to cover people who currently lacked access to bank loans. It was important to incorporate a gender dimension as the programme developed in order to ensure that more women could benefit from it.

36. Lastly, programmes to improve living conditions — access to safe drinking water, sanitation and waste disposal — were ongoing. For instance, the Southern Environmental Authority, a parastatal organization, was investigating legislation dealing with waste management and developing related programmes, as waste disposal was becoming an environmental problem that negatively affected women's ability to generate income.

Significant efforts were also being made to drill bore holes and dig pit latrines for those without access to running water.

37. **Ms. Gabr** requested additional information on the amendment to the Deeds Registry Act. She wished to know whether the delegation intended work to with the media to publicize the issue. She understood that full implementation of the amendment required legislation and thus wished to know what was going to be done to ensure that the amendment to the law would take effect.

38. **Ms. Mabuza** (Swaziland) said that the relevant legislation was under consideration and pending submission to the parliament.

Articles 15 and 16

39. **Ms. Halperin-Kaddari** noted that Swaziland was the last country in the world in which a wife could legally be a minor under the guardianship of her husband. That doctrine, known as marital power and similar to the principle of coverture from common law, was apparently being treated as if it were like any other piece of legislation in need of amendment or repeal, even though its continued existence was a matter far more serious than the existence of any other discriminatory law in Swaziland or elsewhere. She understood that there were four types of matrimonial regimes in Swaziland – three under civil law and one under customary. One of the regimes involved marriage in community of property and two, which could be either with marital power or without, were out of community of property. She asked whether couples were really given the choice of regime, the consequences of which differed, and whether women had the information necessary to weigh the consequences of their choice. She requested assurances that the Government was taking steps to ensure that women were fully aware of those consequences, above all in view of two landmark cases, one, already touched on, in which a section of the Deeds Registry Act had been declared unconstitutional, and another *Nombuyiselo Sihlongonyane v. Moli Joseph Sihlongonyane*, in which the legal doctrine of marital power had been partially struck down. She understood that the ruling had called for the abolition of marital power only in cases of marriage under civil rites and in community of property and wondered what the reason for the limited abolition was and whether the ruling had had any practical effect.

40. Turning to *Attorney General v. Mary-Joyce Doo Aphane*, the case that had led to the amendment to the Deeds Registry Act, she said that she understood that the amendment had also provided for equal division of property, which was a positive development. Once again, however, it was apparently limited only to those who had married in a civil ceremony in community of property. She thus wished to know whether there were plans to have the amended law apply to all types of marriages.

41. Another issue had to do with divorce, which could be sought only for adultery or desertion. As a result, women found it hard to get out of marriages, and women who had married out of community of property — and could thus in theory retain their property — forfeited their rights to their property if they were found to be at fault. The Committee's general recommendation No. 29 went into great detail on the economic consequences of the dissolution of marriage and included a provision that stated that any connection between the notion of fault and property rights should be eliminated. Lastly, regarding customary marriages, which, according to the State party's report, were potentially polygamous, she emphasized that the Committee had recommended the abolition of polygamy. Moreover, in a customary marriage, the woman was under the marital power of both her husband and his family. Were there any plans to change that alarming situation?

42. **Ms. Mabuza** (Swaziland) said that there were civil marriages, governed by Roman-Dutch law, and customary marriages. Under civil law, one could marry in or out of

community of property, and the understanding was that everyone entering into marriage was aware of the options. It could be, however, that what each option entailed became fully clear only later, when problems arose. It was possible, too, that the amendment to the Deeds Registry Act had focused on one aspect of matrimonial regimes and neglected others. At any rate, a review of the Marriage Act could involve reconsideration of the limited grounds for divorce. The Ministry responsible was being pushed to make the review a priority.

43. In customary marriages, one naturally married one's spouse, but one also married into the spouse's family, and the family had the ultimate say in how the relationship would progress. Until there was another Swaziland, it was highly unlikely that such ways would change. Regrettably, polygamy was also a custom of the country, and it was likely to endure. Change had to be introduced slowly.

The discussion covered in the summary record ended at 5.10 p.m.